

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	NO. 4:18-CR-344
	§	
JOHN CRUISE	§	

**DEFENDANT'S *PARTIALLY* UNOPPOSED
MOTION TO CERTIFY CASE AS COMPLEX
AND MOTION TO ENTER NEW SCHEDULING ORDER**

TO THE HONORABLE SIM LAKE, UNITED STATES DISTRICT JUDGE FOR
THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION:

1. The defendant, John Cruise, along with twelve additional defendants, is charged in a twenty-six-count indictment involving allegations which include Conspiracy to Defraud the United States, Conspiracy to Commit Healthcare Fraud and Wire Fraud, Health Care Fraud, and Wire Fraud. The offenses are alleged to have occurred in the Southern District of Texas, the Northern District of Texas, the State of Georgia, the State of Ohio, etc. The government is seeking the forfeiture of over forty-five million dollars from the various defendants.

2. **The discovery is massive.** To date, the government has turned over to the defense, more than **2,862,151** pages of discovery and is in the process of preparing several thousand more documents which will be turned over at a future date. In addition, the government is awaiting the return of more documents, pursuant to subpoenas; which will then be turned over to the defendants. The discovery involves,

mostly, medical and financial records of the defendant; co-defendants; patients/customers of the physician; clinics; pharmacies; and witnesses. After all of the discovery has been produced; it will obviously take several months to review the evidence; as well as conduct a meaningful investigation.

3. The volume of discovery, sophisticated nature of the allegations involved and location of the witnesses make this a complex case as defined in 18 U.S.C. § 3161(h)(7)(B)(ii).

4. This case was indicted on June 20, 2018 and the Defendant made his initial appearance on June 26, 2018; slightly over three months ago. No motions for continuance have previously been filed.

4. Undersigned counsel has consulted with AUSA Scott Armstrong who is unopposed to having this case designated as a complex case. Both parties agree that a continuance will be necessary to effectively prepare for trial. What the parties have not agreed upon is whether the case should be set for trial at this time. AUSA Armstrong believes that the case should be tried in April or May, 2019. However, the defendants believe that it would be more appropriate to take the case off the trial docket until all discovery has been produced and the defendants can give a fair assessment to this Court as to how much time will be necessary to prepare for trial. This would be preferable to having to come back to this Court for a subsequent continuance in the event that discovery is produced later than expected; or counsel

is unable to effectively inspect over 2.8 million files within only six months.

WHEREFORE, PREMISES CONSIDERED, Defendant, JOHN CRUISE, moves that this cause be certified as a complex case, therefore tolling the time limits under the Speedy Trial Act, 18 U.S.C. § 3161, and a new scheduling order be issued, setting this case for a status conference in at least sixty to ninety days.

Respectfully submitted,

/s/ Kent A. Schaffer

KENT A. SCHAFFER

Federal ID No. 3603

TBA No. 17724300

kentschaffer@gmail.com

JAMES M. KENNEDY

Federal ID No. 30414

TBA No. 24008754

jameskennedy@bsdlawfirm.com

712 Main Street, Suite 2400

Houston, Texas 77002

Telephone: (713) 228-8500

Facsimile: (713) 228-0034

Jeff B. Vaden

Bracewell LLP

711 Louisiana Street, Ste 2300

Houston, TX 77002

713-221-1501

Fax: 800-404-3970

Email: jeff.vaden@bracewell.com

Counsel for Defendant,

JOHN CRUISE

CERTIFICATE OF CONFERENCE

Undersigned counsel has consulted with counsel for the government who is unopposed to having this case designated as a complex case as long as the case is scheduled for trial no later than late April or May 2019. The government objects to a continuance later than May 2019.

Undersigned counsel also conferred with the parties below and all join in this motion.

Lashonia Johnson (2), Defendant

Counsel: Dan Lamar Cogdell
Cogdell Law Firm, PLLC
dan@cogdell-law.com
John Dennis Hester
dennis@cogdell-law.com

Kenny Ozoude (3), Defendant

Counsel: Samuel Louis
Strasburger and Price
sam.louis@strasburger.com

Jay Bender, M.D. (4), Defendant

Counsel: Eugene Paul Tausk
Tausk & Vega
gene@tauskvega.com

James Don Jackson, M.D. (5), Defendant

Counsel: John L Green
jlgreen488@aol.com

Deepak Chavda, M.D. (6), Defendant

Counsel: Jeffrey J Ansley
Bell Nunnally & Martin LLP
jansley@bellnunnally.com

Nirvana Hightower (7), Defendant

Counsel: Don E Lewis
lewisfirm@aol.com

Keith Hudson (8), Defendant

Counsel: Brett A Podolsky
podolaw@gmail.com

Donathan Kemp (9), Defendant

Counsel: Joseph W Varela
jwvarela@gmail.com

Naresh Jivanji (10), Defendant

Counsel: F Clinton Broden
Broden & Mickelsen
clint@texascrimlaw.com

Audra Jones (11), Defendant

Counsel: Gerald Fry
jerryfry@hal-pc.org

Terrance Aice (12), Defendant

Counsel: David Michael Finn
Milner Finn
judgefinn@davidfinn.com

Sherod Johnson (13), Defendant

Counsel: Louis A Latimer
Latimer & Associates P.C.
louis.latimerlaw@yahoo.com

/s/ Kent A. Schaffer

KENT A. SCHAFFER

CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to Scott Armstrong, counsel for the Government; as well as to counsel for each of the defendants.

/s/ Kent A. Schaffer

KENT A. SCHAFFER